



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Robert Logan Michael

3584203

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 1:17-4314

(Number to be assigned by Court)

co^{iff} Dave Gordon, Mt. Olive Correctional Complex

Lt. Nate Kendrick, Mt. Olive Correctional Complex

David Ballard, Warden (MoCC)

Dr. Lye Wexford Health Services (MoCC)

Dr. Garcia Wexford Health Services Stevens Correctional Center

(Enter above the full name of the defendant

or defendants in this action)

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____ No X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county);

3. Docket Number: _____

4. Name of judge to whom case was assigned:

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. Place of Present Confinement: Stevens Correctional Center

A. Is there a prisoner grievance procedure in this institution?

Yes X No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No _____

C. If you answer is YES:

1. What steps did you take? Filed proper grievances on each issue, exhausted grievance procedures

2. What was the result? No relief was provided, issues weren't resolved

D. If your answer is NO, explain why not: _____

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Robert Logan Michael

Address: 795 Virginia Ave Welch, WV 24801

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: Correctional officer II Dave Gordon

is employed as: a correction officer

at Mt Olive Correctional complex

D. Additional defendants: Lt. Nate Kendrick, correctional officer, (MOCC)
Dr Lyc., doctor, (MOCC) Wexford Health services. Dr. Garcia
doctor, Stevens Correctional Center, Wexford Health services
David Ballard Warden, (MOCC)

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

On November 20, 2015, I was a member of an inmate work crew from Mount Olive Correctional Complex which performed work for the West Virginia Division of Highways. Upon completion of the days work, I loaded into the DOH van to return to the prison. On the return trip, the DOH van was rear-ended at a stop light in Smithers, WV. At which time I was injured, specifically in my neck & back area. The accident was determined to

IV. Statement of Claim (continued):

be a hit and run because the driver of the other vehicle fled the scene. The seatbelts in the DOH van do not operate properly. CO^{II} Dave Gordon was the driver of the van. By policy CO^{II} Dave Gordon is required to perform a equipment check of the van before leaving the prison. He failed to notice the faulty seatbelts.

Lt. Nate Kendrick, CO^{II} Dave Gordon's shift commander reported to the scene of the accident. He was notified of my injuries. Lt. Nate Kendrick told me I would have to

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

I would like to receive compensatory and punitive damages for numerous medical fees, emotional and physical distress, pain and suffering, cruel and unusual punishment, medical negligence / malpractice, inadequate medical care, negligence of prison staff, the money I would have received from being laid in medically from work, also future medical fees for proper treatment I would like to receive nominal damages for violation of my rights. Estimated total value \$ 225,000. Estimated by medical procedures, therapy and damage caused.

Statement of Claim (continued)

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wait till we got back to Mt. Olive for a medical evaluation, which is approx. 8 miles away. A hospital was only 2 miles away. Lt. Nate Kendrick violated my Eighth amendment right of access to medical attention. Also he and CO^{II} Dave Gordon were negligent with proper procedures and protocols for a accident. Both showed deliberate indifference to my injuries once they had direct knowledge. This is not CO^{II} Dave Gordon's first accident.

A nurse evaluation was done when we arrived at MOCC. X-rays were not done till November 23, 2015. I did not receive a doctor evaluation until November 25, 2015, at which time Dr. Lye said "He could not fix what he could not see;" a x-ray does not show muscle and nerve damage. I let him know I was still in pain and nothing further was done. Numerous sick calls were filed. I was laid in from work detail medically for 21 days. At which time my pain did not go away. I returned to work and took breaks as needed. Dr. Lye provided unethical and unprofessional treatment. He denied me further medical treatment and denied me referral to a specialist. No MRI / CTScan was ever done to show muscle and nerve damage. I have the right to healthcare staff qualified to address my problems. (For further dates see notes). My injuries were known to be chronic, reoccurring and a serious medical need

Continued page 2

Statement of claim (continued)

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All which violates my Eighth amendment right to proper and adequate medical care. Dr. Lye showed deliberate indifference to my needs medically. I am still suffering.

Warden David Ballard (Mocc), was notified of his officers negligence and my medical issue. No help or relief was ever received. He had direct knowledge of my injuries from grievances and letters. (Exhibit D)

Upon filing my grievances on the issue I was transferred to Stevens Correctional Center on 6-17-16. At which time Dr. Garcia (Westford Health Services) took over my medical care. I notified Dr. Garcia of my situation on my arrival. I made him aware I was still in pain and no treatment (ibuprofen) was helping. Numerous sick calls were filed over the next year and half, every time I was seen by him no further treatment or recommendations were made. Dr. Garcia was and still is ignoring my chronic, reoccurring pain. He is denying me access to health care staff qualified to address my problem. (MRI / CT scan / referral to specialist). Every time I see Dr. Garcia he has to be reminded of my pain and explained the situation over. He is not providing proper and adequate medical care to treat my injuries. He has direct knowledge of my pain and is showing deliberate indifference by ignoring my needs with no further treatment, I am still suffering.

V. Relief (continued)):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes No

If so, state the name(s) and address(es) of each lawyer contacted:

Paul Streble PO Box 2582 Charleston, WV 25329

If not, state your reasons: _____

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

Signed this 7th day of November, 2017.

B Y Michael

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11-7-17.
(Date)

B Y Michael
Signature of Movant/Plaintiff

Signature of Attorney
(if any)